

# ***NEWS RELEASE***

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## ***OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA***

***San Diego, California***

***United States Attorney  
Carol C. Lam***

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***For Immediate Release***

### **NEWS RELEASE SUMMARY** - April 18, 2005

United States Attorney Carol C. Lam announced that Mark Darren McClafferty pled guilty today to multiple fraud and money laundering charges arising from the operation of Commercial Express, LLC, an organization formerly headquartered in Los Angeles, which had boiler rooms in several U.S. cities, including San Diego, and which defrauded over 700 victims nationwide of over \$18,000,000 through a sophisticated "Ponzi scheme." McClafferty, of Bournemouth, England, and Los Angeles, California, entered his guilty pleas in U.S. District Court in San Diego, California, before the Honorable Napoleon A. Jones, Jr., admitting to one count of Conspiracy to Commit Securities Fraud, one count of Securities Fraud, six counts of Mail Fraud, three counts of Wire Fraud, one count of Conspiracy to Commit Money Laundering, four counts of Money Laundering, and two counts of Engaging in Monetary Transactions Greater than \$10,000 in Criminally-Derived Property. McClafferty also admitted to the Criminal Forfeiture Allegations of the Indictment and agreed to forfeit \$1,707,166.90. As an additional part of his plea agreement, McClafferty agreed to pay \$18,667,124.00 in restitution to victims of the Commercial Express scheme across the United States.

U.S. Attorney Lam said that McClafferty, who was indicted by a federal grand jury in June 2003, was extradited from the United Kingdom to the United States in November 2004. “The defendant’s extradition and prosecution on these charges demonstrates the unwavering commitment of this office to bring to justice those who defraud our citizens, from wherever they seek to hide.”

Assistant U.S. Attorney Steven A. Peak, the lead prosecutor handling the case, described the underlying Ponzi scheme, as follows. McClafferty, along with the other owners and operators of Commercial Express, offered to the investing public the opportunity to purchase “Media Units” for the amount of \$5,000 or \$10,000 per unit, or “Equity Participations” for a minimum investment of \$100,000. A Media Unit purported to be a purchase of a minimum of 80-100 media broadcast spots, with the investor profiting from the gross revenues from sales generated from direct response commercials. An Equity Participation was purportedly an ownership interest in Commercial Express, with participation in the business’ worldwide profits. The Media Units and Equity Participations, in fact, constituted investment contracts and securities within the meaning of federal and state securities laws.

Assistant U.S. Attorney Peak said that documents filed with the court and admissions by McClafferty established that McClafferty and the other operators of Commercial Express, along with the salespeople working for the boiler rooms, promised investors exorbitant returns on their investment. In order to generate interest in the investment scheme, Commercial Express actually paid large returns to a limited number of initial investors. However, contrary to the representations, these payments were not made from profits earned from products sales, from the funds of later purchasers of the Media Units.

United States Attorney Lam said that the San Diego Boiler Room Task Force, an organization made up of representatives from the United States Attorney's Office, the Internal Revenue Service Criminal Investigation Division, the United States Postal Inspection Service, the Federal Bureau of Investigation, the California Attorney General’s Office and other federal, state and local agencies in San Diego and Southern California had investigated this telemarketing organization for over three years, and had worked closely with

the U.S. Securities and Exchange Commission and the Federal Trade Commission, each of which had investigated Commercial Express for regulatory violations. According to U.S. Attorney Lam, prosecutors from three Department of Justice components also participated in the investigation, including the Fraud Section, Criminal Division; the Antitrust Division; and the Tax Division.

A sentencing hearing is scheduled before Judge Jones on September 12, 2005.

## **DEFENDANT**

Mark Darren McClafferty

## **SUMMARY OF CHARGES**

Title 18, U.S.C. Section 371 – Conspiracy to Commit Securities Fraud (1 count)  
Maximum penalty per count: five years; fine of \$250,000

Title 15, U.S.C. Section 78j(b) and 78ff – Securities Fraud (1 count)  
Maximum penalty per count: ten years; fine of \$1,000,000

Title 18, U.S.C. Section 1341 – Mail Fraud (6 counts)  
Maximum penalty per count: five years; fine of \$250,000

Title 18, U.S.C. Section 1343 – Wire Fraud (3 counts)  
Maximum penalty per count: five years; fine of \$250,000

Title 18, U.S.C. Section 1956(h) - Conspiracy to Commit Money Laundering (1 count)  
Maximum penalty per count: ten years; fine of \$250,000

Title 18, U.S.C. Section 1956(a)(1)(A)(I) - Money Laundering (4 counts)  
Maximum penalty per count: ten years; fine of \$250,000

Title 18, U.S.C. Section 1957 – Engaging in Monetary Transactions Greater than \$10,000 in Criminally-Derived Property (4 counts)  
Maximum penalty per count: ten years; fine of \$250,000

## **AGENCIES**

San Diego Boiler Room Task Force, Internal Revenue Service, Criminal Investigations, United States Postal Inspection Service, Federal Bureau of Investigation, California Attorney General's Office/California Department of Justice, Fraud Section, Criminal Division, U. S. Department of Justice Tax Division, U. S. Department of Justice Antitrust Division, United States Department of Justice Fraud Section